

## REMARKS

Applicant is in receipt of the Office Action mailed October 6, 2004. Claims 1-3, 5-34, 36-48, 50-60, 62-66, 68-77, and 79-81 were rejected. Claims 1, 5, 29, 30, 36, 44, 45, 46, 50, 56, 62, 65, 68, 73, and 79 have been amended. Claims 3, 34, 48, 60, 66, and 77 have been cancelled. Thus, claims 1-2, 5-33, 36-47, 50-59, 62-65, 68-76, and 79-81 are currently pending in the application.

Claims 1-3, 5-34, 36-48, 50-60, 62-66, 68-77, and 79-81 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,673,401 to Volk et al. (hereinafter “Volk”) and U.S. Patent No. 6,425,120 to Morganelli et al. (hereinafter “Morganelli”). Applicant respectfully traverses this rejection.

Applicant submits that there are numerous elements of the present claims that are not taught or suggested by Volk or Morganelli. For example, amended claim 1 recites in part, “programmatically modifying the graphical program...wherein said programmatically modifying the graphical program comprises modifying the graphical program without any user input specifying the modification during said programmatically modifying”. This element of claim 1 is not taught or suggested by Volk or Morganelli, taken either singly or in combination.

The Office Action states that Volk teaches “modifying the graphical program”. However, Volk cannot possibly teach modifying a graphical program, either programmatically or otherwise, because Volk does not even teach the concept of a graphical program.

Volk relates generally to a system for generating and displaying control items that allow users of an interactive network to recognize and select control functions via a graphical user interface (Abstract). The portions of Volk cited in the Office Action (Col. 5 lines 30 – 45, Col. 6 lines 9 – 17 and 35 – 60, and Col. 10 lines 15 – 38) pertain to the display of the graphical user interface that utilizes the control items. In particular, Col. 5 lines 30 – 45 pertain to control items such as buttons, spin dials, and other visual objects displayed on the graphical user interface. Similarly, Col. 6 lines 9 – 17 describe the control items as comprising various audiovisual elements. Col. 6 lines 35 – 60 describe the control items as having inheritability features which simplify the programming of user interface effects. Col. 10 lines 15 – 38 pertain to focus items and focus elements. For example, a focus item is described as something that is perceptible to a user, such as a screen display or a sound track.

Thus, Volk relates generally to the display of a graphical user interface. However, a graphical user interface is not at all the same as a graphical program. As recited in amended claim 1, “the graphical program comprises a flow diagram comprising a plurality of interconnected nodes that visually indicate functionality of the graphical program, wherein the graphical program is executable to perform said functionality according to the flow diagram”. The concept of an executable program that comprises a flow diagram that includes a plurality of interconnected nodes that visually indicate functionality of the program is nowhere taught or suggested in Volk. Thus, Volk simply does not teach the concept of a graphical program and therefore cannot possibly teach the concept of modifying a graphical program, either programmatically or otherwise.

Applicant also respectfully notes that the Office Action fails to distinguish between different elements recited in claim 1. Claim 1 recites in pertinent part:

executing a graphical program generation (GPG) program;  
the GPG program receiving information, wherein the information specifies desired functionality of the graphical program;  
the GPG program programmatically modifying the graphical program in response to said information specifying the desired functionality of the graphical program, such that the graphical program implements the specified desired functionality;

Thus, the GPG program is not the same as the graphical program. However, the Office Action appears to confuse these elements, stating the following: “Volk et al show the method for modifying a graphical program including executing a graphical program [sic] (Figure 1, 16A-B for example, column 5 lines 40 – 55), the program [sic] receiving functionality information and modifying the graphical program to implement the specified functionality (column 5 lines 30-45, column 6 lines 9-17 and 35-60, column 10 lines 15-38).” Thus, the Office Action fails to distinguish between the graphical program and the GPG program. It is entirely unclear from the Office Action what element in Volk the Examiner considers to be the GPG program and what element in Volk the Examiner considers to be the graphical program. Applicant respectfully requests that the Examiner clarify this question.

Furthermore, none of the portions in Volk that are cited in the above sentence in the Office Action teach the concept of either a graphical program or a GPG program as recited in claim 1. Col. 5 lines 30 – 45, Col. 6 lines 9 – 17 and 35 – 60, and Col. 10 lines 15 – 38 pertain to

the display of Volk's graphical user interface and have already been discussed above. The Office Action also cites FIG. 1, FIG. 16, and Col. 5 lines 40 – 55. Figure 1 illustrates an operating environment for an interactive network system. Figure 16 is a logical flowchart pertaining to the display of the screen in a graphical viewer interface. Col. 5 lines 40 – 55 is a portion of Volk's invention summary which describes Volk's invention as providing a method of displaying a control item on a display screen and for graphically manipulating user controls imparted to the control item via a user input device. Thus, none of the cited portions of Volk relate even remotely to either a graphical program or a GPG program as recited in claim 1.

It is also unclear from the Office Action what role the Morganelli patent plays in the rejection of claim 1. In particular, it is not clear what specific elements recited in claim 1 the Examiner believes are not taught in Volk and what elements are believed to be taught in Morganelli. The Examiner states that, "Volk et al do not specifically show the underlying program generation per se". Applicant does not understand what the Examiner means by "the underlying program generation" and notes that this terminology is not used in claim 1. The Examiner goes on to state that, "Morganelli et al show the program generation program aspect". Again, Applicant does not understand what the Examiner means by "the program generation program aspect" and notes that this terminology is not used in claim 1 either. Applicant simply notes that Morganelli does not teach the concept of a graphical program generation (GPG) program operable to programmatically modify a graphical program without receiving any user input specifying the modification during said programmatically modifying.

Morganelli's FIG. 9 which is cited by the Examiner shows a data/control flow diagram 900. Col. 22 lines 16 – 40 describe various objects in the data/control flow diagram 900 and their relationships to each other. The data/control flow diagram 900 apparently implements procedures operable to acquire a temperature measurement which is then utilized to make a comparison (see Col. 22 line 62 – Col. 23 line 19). However, it is not at all clear what relevance this may have to the rejection of amended claim 1.

Thus, for at least the reasons provided above, Applicant respectfully submits that the cited references do not teach all of the elements, much less the combination of elements, recited in claim 1. Applicant thus submits that independent claim 1, and claims dependent thereon, are patentably distinct over the cited references, and are thus allowable.

Inasmuch as independent claims 29, 30, 44, 45, 46, 56, 65, and 73 contain similar limitations as claim 1, Applicant submits that these claims, and claims respectively dependent thereon, are also allowable for reasons similar to those provided above.

Removal of the 103 rejection of claims 1-2, 5-33, 36-47, 50-59, 62-65, 68-76, and 79-81 is respectfully requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

## CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-52300/JCH.

Also enclosed herewith are the following items:

- Return Receipt Postcard

Respectfully submitted,



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